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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,915	12/12/2005	Tetsuji Zama	3103-112	2364
66458 7590 12/31/2007 WATCHSTONE P+D, PLC 1250 CONNECTICUT AVENUE, N.W. SUITE 700 WASHINGTON, DC 20036-2657.			EXAMINER HARRIS, GARY D	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 12/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/533,915

Applicant(s)

ZAMA ET AL.

Examiner

Gary D. Harris

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Claims 3, 6, & 11-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/17/2007.

### *Response to Arguments*

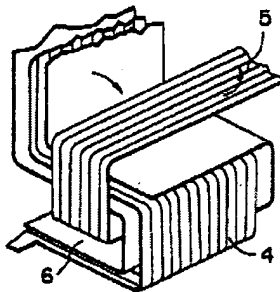
Applicant's arguments filed 10/17/2007 have been fully considered but they are not persuasive. Applicant argues the following:

Applicant argues that the '685 patent does not disclose the conductivity not less than  $1.0 \times 10^3$  S/cm. However, the '685 patent uses aluminum which would exceed this conductivity.

Applicant argues that references do not teach **stretchable structures**. However, examiner interprets the ability of a material to stretch in the form of expansion and contraction would be dependent on the amount of energy put into a material (i.e. even a steel beam will expand and contract when heated and cooled).

Applicant argues that the claims have been amended to include **stretchable structures having spaced portions between them**. However, claims do not indicate how much space is between the stretchable structures. As illustrated below Oshawa et al. '685 illustrates spaced portions between members which would read on applicants claims.

**FIG. 9**



Applicant argues that reference does not disclose a spring shaped members, meshed members and fiber structure sheets. However, Oshawa et al. '685 discloses the use of fibers and fabrics (meshed) (Col. 15, 16, Line 60-68, 1-4 respectively). Examiner interprets fig. 9 to be a spring shaped member.

Applicant argues that there is a difference between an actuator and a battery. This may be true, but an actuator has not been claimed.

For reasons of record, the rejection is substantially repeated:

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4, 5 & 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 2, 4, 5 & 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: What the applicant considers to be the materials and layered structure that possess the stretching property.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 8, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshawa et al. US 4,948,685.

As to Claims 1 & 2, Oshawa et al. '685 discloses a composite electrode coated with a polymeric material (Col. 29, Line 15-21). Oshawa et al. '685 does not disclose the conductivity not less than  $1.0 \times 10^3$  S/cm. However, Claim 1,2,4 seems to be identical, except that the prior art is silent as to the inherent characteristics. These

properties are inherent because the applicants and the inventors teach virtually identical structures with similar materials. The physical properties of similar materials will inherently be similar. The burden of proof is shifted to the applicant to show the prior art properties are different from those claimed. See *In re Fitzgerald*, 619 F. 2d 67, 205 USPQ 594 (CCPA 1980).

As to Claim 5, Oshawa et al. '685 illustrates a spiral cylinder laminated sheet (Figure 12).

As to Claim 8 & 10, Oshawa et al. '685 discloses pressing composite electrolyte (Col. 11, Line 5-18).

Claims 7 & 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshawa et al. US 4,948,685 as applied to claims 1, 2, 4, 5 7, 8 & 10 above, and further in view of Charpentier et al. US 6,914,105.

Oshawa et al. '685 does not disclose a device for driving parts (examiner interprets driving parts as conveyance). However, Charpentier et al. US 6,914,105 teaches the use of a continuous process for moving parts (Col. 9, Line 19-36). Conveyance of parts is well known in the industry and would have been obvious to one skilled in the art to combine the teaching of Charpentier et al. US 6,914,105 in the Oshawa et al. '685 invention.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary D. Harris whose telephone number is 571-272-6508. The examiner can normally be reached on 8AM - 5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GH

  
CAROL CHANEY  
SUPERVISORY PATENT EXAMINER